

TENNESSEE BOARD OF OPTOMETRY

DATE: June 28, 2006

TIME: 9:00 a.m.

LOCATION: Tennessee Room
Ground Floor, Cordell Hull Building
Nashville, TN

BOARD MEMBERS

PRESENT: Scott Spivey, OD, Chair
Jeff Foster, OD, Vice Chair
Jerry Richt, OD, Secretary
Eddie Abernathy, OD
Richard Orgain, OD

BOARD MEMBERS

ABSENT: Pier Briley, Consumer Member

STAFF PRESENT: Stacy Lannan, Board Administrator
Robbie Bell, Director
Nicole Armstrong, Advisory Attorney
Barbara Maxwell, Administrative Director
Jerry Kosten, Rules Coordinator

Dr. Spivey, chair, called the meeting to order at 9:06 a.m. A sufficient number of board members were present to constitute a quorum.

Approval of Minutes

Upon review of the March 22, 2006 Board meeting minutes, Dr. Foster made a motion, seconded by Dr. Richt to approve the minutes upon adding Dr. Abernathy's name to the list of board members present. The motion carried.

Conflict of Interest

Ms. Armstrong reviewed the conflict of interest policy with the board which requires all board members to disclose any conflict of interest they may have, whether existing or potential that could affect the performance of their duties as board members. Ms. Armstrong stated that if a Board member has a conflict of interest they must recuse him/herself from the proceedings and leave the room during the hearing.

Office of General Counsel Report (OGC)

Ms. Armstrong reviewed the report stating the criminal background check rule is in effect, requiring all applications received after June 1, 2006 to be accompanied by the results of the criminal background check.

Ms. Armstrong said the rule amendments pertaining to contact lens prescription validity, screening panels and use of titles was adopted by the Board November 30, 2005 is still at the Office of the Attorney General along with the rule pertaining to education accreditation, injectable and therapeutic certification, professional corporations and professional limited liability companies.

Ms. Armstrong said there are no open cases pertaining to the Optometry board in OGC.

Report from Jerry Kosten, Rules Coordinator

Mr. Kosten presented a notice of rulemaking hearing to amendment Rule 1045-2-.05 for the board's consideration which requires all continuing education providers be approved by the Council on Optometric Practitioner Education (COPE) with the exception of grand rounds.

Upon discussion, Dr. Foster made a motion, seconded by Dr. Richt, to approve the rule with an amendment stating that courses provided by the Tennessee Academy of Optometry that are non-COPE approved courses shall be counted as one-to-two in terms of hours. The motion carried.

Mr. Kosten discussed another amendment to these rules which defines therapeutic and practice management courses.

Mr. Kosten discussed the amendment to Rule 1045-2-.06 which gives the person who chaired the meeting in which there was disciplinary action and a petition for reconsideration was submitted, to decide whether or not to accept the petition.

Discuss application and enforcement of T.C.A. §63-8-113(c)(6)

Ms. Bell spoke to the Board about the effects of the resolution of the Lenscrafters case on the investigation and prosecution of violations of T.C.A. § 63-8-113(c)(6). HRB has met with BIV and OGC to determine how to handle information generated by the Lenscrafters cases about optometrists who may be in violation of that law. Ms. Bell stated a former board member may be asked to assist the Department in reviewing the information collected by the case. Ms. Bell said that the Division or Board could mail a letter to all licensees affirming that the Department would enforce T.C.A. § 63-8-113(c)(6)

Ms. Bell said violations of the law may be initially addressed by a cease and desist letter sent to the optometrist to allow them to make the changes necessary for compliance and that those who failed to comply would come before the board in the form of contested case hearings.

Upon discussion, the Board asked that a letter to be sent to all of its licensees. The Board also asked that the Attorney General's Office be advised of the Board's support of Boulton-Cummings'

offer to assist in the enforcement of T.C.A. § 63-8-125 (if a contingency arrangement is possible).

Investigative Report

Ms. Phelps reviewed the investigative report stating there are two (2) complaints in Investigations against optometrists. Ms. Phelps said two complaints have been closed, one with no action and the other with a letter of concern.

Disciplinary Report

Ms. Phelps reviewed the disciplinary report stating there are currently two practitioners being monitored, one of whose license was suspended indefinitely.

Ms. Phelps stated if the disciplinary practitioners are in non-compliance with the orders she would file a complaint against them to bring them before the board for additional action.

Financial Report

Ms. Lannan reviewed the financial report reflecting the board had a cumulative carryover of \$176,225.68 from June 30, 2006. Ms. Lannan stated the total does not include the board's portion of the cost for the move to Metro Center.

Administrative Report

Ms. Lannan said the administrative report indicates there are 1078 active optometrists, 799 retired, 432 failed to renew and 171 deceased.

Ms. Lannan stated of the 123 optometrists who renewed their licenses between March 2006 and June 2006, 22 renewed online.

Ms. Lannan said there are 396 optometrists with injectables and 1000 with therapeutic.

Discuss and consider changes to the application

Ms. Lannan said when she took over the Optometry board there were several items in the rules that were not in the application. Ms. Lannan stated that the items had been changed so that the rules and application would correspond.

Ms. Lannan said the jurisprudence exam is currently administered by NBEO and questioned the \$70 fee NBEO charges to applicants when the exam can be distributed by administrative staff. Upon discussion, Ms. Bell suggested incorporating the jurisprudence exam as part of the application. Ms. Armstrong stated she could use the model that other boards have used for this process.

Discuss and consider ratification of newly licensed, reinstated, closed files, National Board of Examination waiver requests, injectable certification, professional practice name requests and continuing education approvals for Optometrists

Upon review, Dr. Richt made a motion, seconded by Dr. Foster, to approve the following newly licensed and reinstated optometrists:

Newly Licensed

**Summer T. Anderson
Eric H. Barnes
Matthew G. Cordes
Kelly P. Dice
Anthony K. Hartness
James M. Hertzog
Elizabeth P. Hitchcock
Don L. Jackson
Willis C. Maples
Zachary S. McCarty
Stephen M. McKinley
Sara Miller
Celeste R. Oliver
Matthew S. Piper
Jennifer L. Pomeroy
Christina M. C. Smith
Natalie J. Swanson
Daniel A. Taylor
Shay C. Thewes
Krystina I. Wreggit**

Reinstated

**Gary C. Hubbard, OD
Adam J. Raymond, OD
Shilpa J. Register, OD**

The motion carried.

Professional practice name requests

Upon review, Dr. Orgain made a motion, seconded by Dr. Abernathy, to approve the following professional practice name requests:

**Dr. Robert S. Parker, III, Family Eyecare
Robert S. Parker, OD**

SEE Main Street

Greg Vsdan, OD

Gerald Eisenstatt, OD

Performance Eyecare

Heather H. Walker, OD

The motion carried.

Review continuing education courses for approval

Upon review of the courses submitted by the **University of Georgia**, which are Cope and ARBO approved, Dr. Abernathy made a motion, seconded by Dr. Spivey, to approve the courses. The motion carried.

Upon review of the courses submitted by the **Montana Optometric Association**, Dr. Spivey made a motion, seconded by Dr. Foster, to approve the eighteen (18) hours of continuing education courses. The motion carried.

Upon review of the course submitted by **Dr. Logan** and **Dr. Cherney**, Dr. Orgain made a motion, seconded by Dr. Abernathy, to approve the two (2) hours of continuing education course. The motion carried.

Upon review of the courses submitted by the **College of Optometrist and Vision Development**, Dr. Foster made a motion, seconded by Dr. Abernathy, to approve the courses. The motion carried.

Review licensure files

Upon review, Dr. Richt made a motion, seconded by Dr. Foster, to approve the injectable certification for **Pauline Ilsen, OD**. The motion carried.

Review applications

Upon review of the application for **Stacy Kreger, OD** and evidence of the college she attended is an accredited college, Dr. Foster made a motion, seconded by Dr. Richt, to approve Ms. Kreger for licensure. The motion carried.

Upon review of the application for **Andrea Washington, OD** and evidence of the college she attended is an accredited college, Dr. Foster made a motion, seconded by Dr. Richt, to approve Ms. Washington for licensure. The motion carried.

Upon review of the application for **Allen Rhoads, OD** and request of a waiver of Part 3 of the National Board of Examiners in Optometry examination, Dr. Foster made a motion, seconded by Dr. Abernathy, to grant the waiver and approve Dr. Rhoads for licensure upon successfully completing the required oral education, including injectables. The motion carried.

Upon review of the reinstatement application for **Christopher Allee, OD** and continuing education records provided by the Texas board, Dr. Spivey made a motion, seconded by Dr. Abernathy, to approve Dr. Allee for licensure. The motion carried.

Upon review of the application for **Marshall Tillman, OD** and request of a waiver of Part 3 of the National Board of Examiners in Optometry examination, Dr. Abernathy made a motion, seconded by Dr. Spivey, to approve Dr. Tillman for licensure. The motion carried.

Upon review of the application for **Dr. Barnes** and request of special circumstances to keep her incomplete application open for a period longer than sixty (60) days, Dr. Richt made a motion, seconded by Dr. Orgain, to (1) accept Dr. Barnes' academic credentials (according to Board's law/rules as they read in June 2006), (2) allow Dr. Barnes' application open until June 2007, by which time she must have successfully passed Parts I and III of the National Board of Examiners in Optometry exam (or else her application file will be closed) and (3) sponsor Dr. Barnes to take Part I of the National Board of Examiners in Optometry exam in August 2006 and Part III of the National Board of Examiners in Optometry exam in April 2007.

Review correspondence/legislation

The Board asked Ms. Armstrong to respond to the letter from John Neuhoff III, O.D., inquiring about the leasing of office space to unlicensed individuals. The Board noted that vision therapy/orthoptic training is the practice of optometry. (Tenn. Code Ann. § 63-8-102(12), Tenn. Comp. R. & Regs. 1045-2-.11(4)) The Board also reviewed a letter from an anonymous optometrist describing a retail store's practices involving the lease of space to optometrists, but it could not be referred to BIV for an investigation because it lacked specific information about the date or location of the alleged conduct.

Ms. Armstrong and Ms. Bell reviewed recent legislation affecting the Board: the sunset date for the Board has been extended until 2010 (2006 Pub. Ch. 793); SB3856/HB3901 to grandfather in optometrists practicing in or in conjunction with retail stores as of June 1, 2006, was not enacted; 2006 Pub. Ch. 663 regarding the use of home mailing addresses in practitioner profiles. Ms. Bell discussed the upcoming practitioner profile mailing which will inform licensees to decide whether they want their home addresses listed as their practice address. Ms. Bell said the mail out has to be completed by 2007.

Ms. Bell discussed the upcoming mapping capability that will be added to licensees' practice addresses in the practitioner profile. She said this capability will allow users to get driving directions to the practitioner's office.

With no other business to conduct, Dr. Foster made a motion, seconded by Dr. Abernathy, to adjourn at 12:30. The motion carried.

Ratified by the Board of Optometry at the September 29, 2006 board meeting.